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CASE NUMBER: 15-2-15975-5 KNT

THE SUPERIOR COURT OF THE STATE OF
FOR THE COUNTY OF KING

VINCENT K. SEWELL, PATRICIA A.
SEWELL, and SOBER SOLUTIONS
TRANSITIONAL HOUSING SERVICES,
LLC,

Plaintiffs

v.

ROSEMARY A. HIBBLER a/k/a
ROSEMARY PARGOUD a/k/a
ROSEMARY BARNES d/b/a SOBER
SOLUTIONS and/or d/b/a SOBER
SOLUTIONS TRANSITIONAL HOUSING,

Defendant

NO.:

COMPLAINT

COME NOW the Plaintiffs, Vincent K. Sewell, Patricia A. Sewell, and Sober Solutions Transitional Housing Services, LLC, by and through their counsel, Barraza Law, PLLC and for cause of action against the above-named Defendant, allege as follows:

I. PARTIES

1.1 Plaintiff Vincent Sewell, a resident of Washington, owns Sober Solutions Transitional Housing Services, LLC and has operated businesses under the names Sober Solutions, Sober Solutions Transitional Housing, and Sober Solutions Transitional Housing Services, LLC ("Sober Solutions") since at least November 2, 2010.

1.2 Plaintiff Patricia A. Sewell, a resident of Washington, leases almost all of her rental housing stock to her son Vincent Sewell which he makes available for Sober Solutions clients.

1.3 Sober Solutions Transitional Housing Services, LLC ("Sober Solutions") is a domestic limited liability company operating under Washington UBI 603061446. Sober Solutions may bring this action because it has complied with all relevant laws and rules and paid all required taxes.

1.4 Defendant Rosemary A. Hibbler a/k/a Rosemary Pargoud a/k/a Rosemary Barnes d/b/a Sober Solutions and/or d/b/a Sober Solutions Transitional Housing ("Hibbler") is believed to be a Washington resident. Hibbler worked on contract for Vincent Sewell, Sober Solutions Transitional Housing, and Sober Solutions Transitional Housing Services, LLC until late December of 2014.

1.5 Plaintiffs allege that the acts complained herein occurred and continue to primarily occur in King County, Washington.

1.6 All allegations of this Complaint are made upon information and belief, without prejudice to amendment, supplementation, contradiction, withdrawal or deletion of any allegation or Plaintiffs' right to prove the true facts at trial after they have been ascertained.

II. JURISDICTION AND VENUE

2.1 Pursuant to RCW 2.08.010, the Superior Court of Washington has personal and subject matter jurisdiction over this case.

2.2 Pursuant to RCW 4.12.010 and/or RCW 4.12.020, King County, Washington, constitutes the proper venue for this action as the wrongful acts occurred and continue to occur primarily in King County, Washington.

III. STATEMENT OF FACTS

3.1 Vincent K. Sewell founded Sober Solutions in September of 2010. Sober Solutions was incorporated on November 2, 2010 as "Sober Solutions Transitional Housing Services, LLC" under Washington UBI 603061446. Vincent Sewell founded Sober Solutions to provide homeless veterans and formerly incarcerated addicts a transitional residential-living environment in which individuals live together as a single family housekeeping unit with common cooking facilities. At that time, Vincent transferred the title of all three of the rental properties he owns to Sober Solutions Transitional Housing Services, LLC. Vincent is the sole owner of the limited liability corporation and it remains active.

3.2 Patricia Sewell, Vincent's mother, leased most of the rental units she owns to Vincent. Although Patricia does not have a legal interest in the corporation, she remains heavily involved in the day-to-day operations of Sober Solutions in its various iterations. Patricia and Vincent Sewell have authorized each other to act as his or her respective agent. This Complaint refers to them as the "Sewells."

3.3 Vincent Sewell created and has exclusively and continuously owned and utilized the "Sober Solutions" trade name since at least September of 2010. In addition to forming Sober Solutions Transitional Housing Services, LLC as a legal entity to operate Sober

1 Solutions, Vincent opened Sober Solutions, a nonprofit corporation, under UBI 603286597 in
2 March of 2013 and dissolved it on March 31, 2014.

3 3.4 [REDACTED] Vincent founded Sober Solutions Transitional Housing, a
4 nonprofit [REDACTED] 503395461. Vincent was listed as the President in the Articles
5 of Incorporation [REDACTED] al director. At incorporation and pursuant to the amended
6 articles of incorporation [REDACTED] board of directors included Vincent Sewell, President;
7 Amelia Williams (Sewell), Patricia Sewell, Chair Person; and June Lu (who subsequently
8 resigned). Vincent and Pat Sewell indicated an initial capital contribution of \$250,000 each
9 consisting of their respective investments in developing the brand and housing over the course
10 of the four years leading up to the formation of the non-profit. As of November 25, 2014, the
11 IRS recognized Vincent as the sole corporate member of Sober Solutions Transitional Housing.
12

13 3.5 From 2010 forward, Vincent Sewell continuously and exclusively used the Sober
14 Solutions trade name in corporate names; correspondence; letterhead; signage; brochures;
15 invoices; receipts; websites; email addresses; contracts with third-parties; advertising; media
16 communications; client agreements, applications, contracts, rules, regulations,
17 communications, and correspondence; utility billing; property titles (for Vincent Sewell's
18 properties); banking; and federal, state, and local government communications and licensure.
19 All three Sober Solutions entities reflected in Washington records, including Sober Solutions
20 Transitional Housing Services, LLC, Sober Solutions, and Sober Solutions Transitional
21 Housing, were established by Vincent Sewell.
22

23 3.6 In September of 2013, Defendant Vincent Sewell contracted Plaintiff Rosemary
24 Hibbler to serve as an independent contractor providing services for Sober Solutions. At that
25 time, Sober Solutions operated as **Sober Solutions Transitional Housing Services, LLC**,
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1 under Washington UBI 603061446. When Vincent founded the nonprofit **Sober Solutions**
2 **Transitional Housing**, he appointed Rosemary Hibbler as executive director. Vincent Sewell
3 terminated Ms. Hibbler's contract by letter dated December 23, 2014.

4 3.7 Sober Solutions in its three legal iterations always endeavored to serve persons
5 with criminal histories. Thus, it was no surprise to the Sewells that Ms. Hibbler had served
6 time in prison for theft. The Sewells conducted reference checks and received a positive
7 reference from an employee of the Department of Corrections. However, Ms. Hibbler failed to
8 disclose that she had been convicted of three felony counts of forgery and four felony counts of
9 theft. She was sentenced to 43-months in prison and was released in June 2013. See Pierce
10 County Superior Court Cause Nos. 09-1-03816 and 09-1-03815-7 verifying her felony
11 convictions.
12

13 3.8 In December of 2013, Ms. Hibbler acknowledged her limited role as Program
14 Director for Sober Solutions Transitional Housing.

15 3.9 The Sewells have used the website sobersolutionshousing.com since 2010. In
16 September of 2014, Rosemary Hibbler convinced the Sewells to authorize her to purchase a
17 new website domain for *sobersolutionshousing.org* (emphasis added). Ms. Hibbler utilized
18 funds belonging to the Plaintiffs to purchase the web domain sobersolutionshousing.org. Ms.
19 Hibbler continues to use the web domain sobersolutionshousing.org even after Vincent Sewell
20 terminated her affiliation with Sober Solutions on or about December 23, 2014.
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22 3.10 In an email message, dated November 13, 2014, Rosemary Hibbler acknowledged
Sewell as Chairman, Patricia Sewell as Treasurer, and Amelia Williams as Secretary
of the Board of Directors of Sober Solutions Transitional Housing. On November 24, 2014,

1 Ms. Hibbler emailed them and requested a meeting of the Board to make some operational
2 decisions.

3 3.11 Throughout 2014, the Sewells financial situation worsened because of high
4 vacancy rates. As a result of a sharp decline in revenue under Ms. Hibbler's watch, Patricia
5 Sewell was forced to re-open her Chapter 11 bankruptcy to save her properties from
6 foreclosure.

7 3.12 On December 5, 2014, Rosemary Hibbler sent an email to the Sewells stating that
8 she was "financially prepared to meet the immediate needs required to satisfy Washington
9 Federal in order to obtain the use of 2301 F Street." That same day, Rosemary Hibbler sent
10 another email to the Sewells stating that she "would like to discuss having the opportunity to
11 Master Lease the following: 1734 S 82nd St, 1736 S 82nd St, 905 18th St, 925 18th St, 19 F
12 St, 2301 F St, 537 37th St. *I would also like to keep the Sober Solutions name. With that, I*
13 *would like to discuss purchasing the Sober Solutions Program* (emphasis added)." She sent
14 the Sewells a third email that day informing them that she "would also like to include 2410 N
15 St units A, C, D as well as 2406" (emphasis added).
16

17 3.13 In response, on December 12, 2014, the Sewells met with Rosemary Hibbler
18 about leasing their properties. On December 13, 2014, Ms. Hibbler sent an email to the Sewells
19 stating, "I have attached the draft for master lease agreements for the buildings only. I have not
20 received the other drafts from attorney. I will forward when I receive. We are submitting a
21 separate agreement for the operation of Sober Solutions non-profit. I also need to get a signed
22 contract which outlines the scope of (sic) to be performed by me for the remainder of the year."
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24 3.14 In December of 2014, the Sewells' accountant, Patrick J. Halligan, identified a
25 pattern of financial discrepancies indicating that Ms. Hibbler misappropriated funds from the
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1 bank accounts that she managed for Sober Solutions Transitional Housing, including failing to
2 pay taxes, mortgages, contractors, and utility bills. By letter dated December 23, 2014, Vincent
3 Sewell terminated Rosemary Hibbler's relationship with Sober Solutions. On or about
4 December 24, 2014, Auburn, Washington police escorted Rosemary Hibbler from the Sewells
5 property. That same month, the Federal Way Police Department initiated an investigation of
6 Ms. Hibbler. Although the Federal Way Police declined to prosecute the case, the Sewells
7 believe that at least \$116,000 in checks plus an unknown amount of unauthorized cash was
8 misappropriated from Sober Solutions by Rosemary Hibbler. Mr. Halligan subsequently
9 reported Ms. Hibbler to the Internal Revenue Service in January of 2015.

10 3.15 On or about December 8, 2014, Ms. Hibbler applied for a Washington trademark
11 with the name "Sober Solutions." On December 9, 2014, the Washington Secretary of State
12 issued trademark S751716 Rosemary Hibbler based on her representation that she had first
13 used it beginning in November of 2012. Ms. Hibbler had no relationship with the Sewells or
14 Sober Solutions until September of 2013. Indeed, all of the materials she submitted in support
15 of her trademark application belonged to the Sewells and were misrepresented as materials she
16 utilized in trade.

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18 3.16 The Board of Directors of Sober Solutions Transitional Housing, including
19 Vincent Sewell, Patricia Sewell, Amelia Williams, never authorized Ms. Hibbler to apply for a
20 state or federal trademark on behalf Sober Solutions Transitional Housing nor licensed the
21 name to her for use or registration. Nor did Vincent Sewell authorize Ms. Hibbler to apply for a
22 state or federal trademark under the name Sober Solutions or ever license the name to her for
23 use or registration.
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1 3.17 On December 16, 2014, Rosemary Hibbler made unauthorized changes to Patricia
2 Sewell's City of Tacoma business licenses when she executed a City of Tacoma Application
3 for Certificate of Registration and Licensing wherein she characterized the name of the LLC as
4 Sober Solutions LLC operating under UBI 603395461 and located at 1736 S. 82nd Street in
5 Tacoma, Washington. Technically, the name of the corporation operating as UBI 603395461 is
6 Sober Solutions Transitional Housing. Neither Patricia Sewell, who owns 1736 S. 82nd Street
7 in Tacoma, Washington, nor the Board of Directors of Sober Solutions Transitional Housing
8 authorized Rosemary Hibbler to apply for a business license in Tacoma.
9

10 3.18 Also on December 16, 2014, the Sewells had a conversation with officials from
11 Catholic Community Services ("CCS") officials regarding a partnership between Catholic
12 Community Services' Housing & Essential Needs program ("HEN") and Sober Solutions. On
13 December 18, 2014, Rosemary Hibbler wrote a letter to Catholic Community Services,
14 asserting the following:

15 We have recently discovered that your business is accepting
16 documentation for housing from Kenneth Moultry using the
17 mark Sober Solutions Transitional Housing.

18 Kenneth Moultry is not authorized to sign on behalf of Sober
19 Solutions or make decisions in regard to Sober Solutions.
20 Any documentation received on behalf of Sober Solutions
 Transitional Housing should bear the signature of Rosemary
 Hibbler only.

21 Rosemary Hibbler is the only authorized individual to sign
22 for your service or product for Sober Solutions Transitional
 Housing.

23 Payments for individuals on the Hen program should be
24 forwarded to 1402 Auburn Way N # 303 Auburn,
 Washington 98002.

25 We believe we have the exclusive right to use this trademark
26 for the following reasons:

1 I. We have registered Sober Solutions with the Washington
2 State Trademark Office, Register No. 57517 on December 8,
3 2014.

4 While the purpose of this letter is to open a dialogue between
5 us, please be advised that we are prepared to take all actions
6 necessary to protect our mark. If you have questions about
7 this letter, please feel free to contact me.

8 Ms. Hibbler attached a copy of the Secretary of State certificate number 57517 that had been
9 issued on December 8, 2014 purportedly granting her a state trademark for Sober Solutions.

10 As a result of the confusion, Catholic Community Services cancelled a tour that had been
11 scheduled for January 5, 2015 for possibly relocating approximately 20 residents from a CCS
12 facility that was closing. While CCS ultimately moved forward with its partnership with Sober
13 Solutions in the spring of 2015, Sober Solutions lost the opportunity to house the 20
14 individuals and potential placements between December of 2014 and the Spring of 2015.

15 3.19 On or about December 8, 2014, Rosemary Hibbler filed a Trademark/Service
16 Mark Application with the United States Patent and Trademark Office (serial number
17 86487949) purporting to register the mark "Sober Solutions." Ms. Hibbler identified herself as
18 the owner of the trademark and listed the legal entity (e.g. herself) as a corporation, declaring:

19 The signatory believes that: if the applicant is filing the
20 application under 15 U.S.C. Section 1051(a), the applicant is
21 the owner of the trademark/service mark sought to be
22 registered; the applicant or the applicant's related company
23 or licensee is using the mark in commerce on or in
24 connection with the goods/services in the application, and
25 such use by the applicant's related company or licensee
26 inures to the benefit of the applicant; the specimen(s) shows
the mark as used on or in connection with the goods/services
in the application; and/or if the applicant filed an application
under 15 U.S.C. Section 1051(b), Section 1126(d), and/or
Section 1126(e), the applicant is entitled to use the mark in
commerce; the applicant has a bona fide intention to use or
use through the applicant's related company or licensee the

1 mark in commerce on or in connection with the
2 goods/services in the application. The signatory believes that
3 to the best of the signatory's knowledge and belief, no other
4 person has the right to use the mark in commerce, either in
5 the identical form or in such near resemblance as to be likely,
6 when used on or in connection with the goods/services of
7 such other person, to cause confusion or mistake, or to
8 deceive. The signatory being warned that willful false
9 statements and the like are punishable by fine or
10 imprisonment, or both, under 18 U.S.C. Section 1001, and
11 that such willful false statements and the like may jeopardize
12 the validity of the application or any registration resulting
13 therefrom, declares that all statements made of his/her own
14 knowledge are true and all statements made on information
15 and belief are believed to be true.

16 Signature: /Rosemary Hibbler/ Date Signed: 12/22/2014
17 Signatory's Name: Rosemary Hibbler
18 Signatory's Position: Owner

19 3.20 Following her termination on December 23, 2014, Rosemary Hibbler attempted to
20 convince Puget Sound Energy to disconnect electrical service for approximately forty-five
21 units, and began threatening third-parties with whom the Sewells had contractual relationships.
22 Although Ms. Hibbler never owned anything related to Sober Solutions, Sober Solutions
23 Transitional Housing Services, LLC or Sober Solutions Transitional Housing, she publicly and
24 wrongfully assumed control of Sober Solutions Transitional Housing.

25 3.21 On December 23, 2014, Ms. Hibbler contacted the Sewells insurance agent
26 regarding cancellation of their insurance for all of the properties and stated,

Good Afternoon Nancy,

Effective immediately, please remove all Patricia Sewells and
Vincent Sewells properties from the Sober Solutions insurance
contract that I entered.

Under no circumstances are Patricia Sewell and or Vincent Sewell to
make changes to the policy that covers the program under the name
Sober Solutions.

1 Please give me a call if you have any questions.

2 Rosemary Hibbler
3 Executive Director
4 Sober Solutions

5 3.22 Amelia Williams, Vincent's sister and Patricia's daughter, opened a Sprint cellular
6 telephone account for use by Vincent Sewell and Patricia Sewell. On November 2, 2010 the
7 Sewells opened and established the telephone number 253-344-8366 for the purpose of his
8 business Sober Solutions. Upon her termination, Hibbler failed to return the mobile devices
9 opened and used for the purpose of Sober Solutions Transitional Housing. On December 26,
10 2014, Amelia Williams reported the telephone and tablet as stolen. Ms. Hibbler then accused
11 Amelia Williams of "burglary" of the phone number and equipment related to 253-344-8366 in
12 an effort to seize control of the phone number and related equipment. Ms. Hibbler utilized the
13 phone number on her advertising after her termination.

14 3.23 Notwithstanding her termination on December 23, 2014, Ms. Hibbler sent a letter
15 dated December 22, 2014 to Vincent Sewell and his contract web designer demanding that they
16 "cease and desist" using the Sober Solutions name.

17 3.24 On December 26, 2014, Ms. Hibbler submitted a "Nonprofit Corporation
18 Amended Annual Report" to the Washington Secretary of State changing the Board of
19 Directors of Sober Solutions Transitional Housing from Vincent Sewell, Amelia Williams, and
20 June Lu to Rosemary Hibbler, Christopher Gomez, and Rosa Remedios. The actual Board of
21 Directors of Sober Solutions Transitional Housing never authorized this amendment.

22 3.25 On December 26, 2014, Rosemary Hibbler sued Vincent Sewell and Patricia
23 Sewell in King County District Court small claims court for items they allegedly failed to
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1 return to Hibbler. The Small Claims Court denied Hibbler's claim and dismissed her case on
2 February 11, 2015.

3 3.26 On December 29, 2014, Rosemary Hibbler and "Sober Solutions" filed a federal
4 lawsuit against Vincent Sewell, Patricia Sewell, Amelia Williams¹, and Kenneth Moultry² for
5 trademark infringement and moved the court to issue a temporary restraining order ("TRO")
6 barring them from using the Sober Solutions name. On January 20, 2015, the federal court
7 ordered Hibbler to provide proof of service of the TRO. When Hibbler failed to comply with
8 the Court's January 20, 2015 order, it denied Hibbler's motion for a temporary restraining order
9 on January 30, 2015. After again denying a second TRO motion filed by Hibbler, the Court
10 ultimately granted the Sewell's Motion to Dismiss on April 9, 2015. In her April 9, 2015 order,
11 United States District Judge Marsha J. Pachman granted the Sewells' Motion to Dismiss as to
12 Ms. Hibbler's federal trademark infringement claim with prejudice and declined to exercise
13 jurisdiction over Ms. Hibbler's remaining state law claims against the Sewells and dismissed
14 Hibbler's state law claims without prejudice. Throughout the Sewell' defense, they consistently
15 asserted that they are the true owners of the Sober Solutions name and put Hibbler on notice of
16 this fact.
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18 3.27 On January 23, 2015, someone acting on behalf of Hibbler contacted George
19 Brummel of George Brummel Counseling, a business partner of the Sewells, and informed
20 him that the Sewells had been sued and "that to operate under Sober Solutions would be
21 against the law."
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23 3.28 On or around January 24, 2015, Rosemary Hibbler and/or agents acting on her
24 behalf visited all of the Sewell properties and posted notices stating:
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26 ¹ Amelia Williams is Vincent Sewell's sister and Patricia Sewell's daughter.

² Kenneth Moultry is a site leader (contract manager) for the Sewells' Sober Solutions program.

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1 3.31 In February of 2015, Vincent Sewell filed a federal trademark application for
2 "Sober Solutions Transitional Housing Services" and a state trademark reservation for "Sober
3 ~~Sober Solutions Transitional Housing~~ Transitional Housing" and "Sober Solutions Transitional Housing Services, LLC."

4 3.32 On February 27, 2015, Vincent Sewell terminated Sober Solutions Transitional
5 Housing Services' (EIN 90-0633298) tax exempt status with the Internal Revenue Service
6 effective December 31, 2014. According to the Washington Secretary of State, as of June 29,
7 2015, Rosemary Hibbler continues to operate "her" nonprofit as "Sober Solutions Transitional
8 Housing Services" as a tax exempt entity operating under EIN 90-0633298.

9 3.33 In or around April of 2015, Hibbler began renting 2302 O St. NE, Auburn,
10 Washington to provide transitional housing under the Sober Solutions trade name. This
11 property is three buildings from the Sewells rental property located at 2212 O St. NE, Auburn,
12 Washington.

13 3.34 In May of 2015, employees of ACE Cash Express contacted the Sewells to
14 ask them about checks drawn on a bank account for Sober Solutions Transitional Housing
15 ~~Services~~. Apparently were returned for nonpayment. According to an email sent on May 22, 2015
16 from Kenneth W. Odum, Check Collections Specialist for ACE Cash Express to the Sewells,
17 Hibbler claimed:
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20 [T]he reason she couldn't pay for the 2 outstanding checks,
21 was because her account had been compromised by your
22 business, and had taken all the funds available and closed the
23 account. I asked her how that was possible? Since she had to
24 be the only one to approve that transaction? She said:
25 because (sic) you all share the same name, and everything
26 was identical there was no problem to do that & she is
working closely with legal counsel regarding this matter.
She asked me to call back for more information after lunch,
but when I called back, it just went straight to voice mail.
That's why I called (the Sewells) to validate
'Story' because it sounded kind of fishy?

1 3.35 On June 11, 2015, Rosemary Hibbler sent an email asserting that the Sewells'
2 Sober Solutions garage sale fundraiser was unlawfully using the Sober Solutions trade name
3 because the trademark belongs to her.

4 3.36 According to internet website information for the Washington State Women
5 Veterans Advisory Committee as of June 4, 2015, Rosemary Hibbler serves on the Washington
6 State Women Veterans Advisory Committee as the program director of "Sober Solutions
7 Transitional Housing."

8 3.37 On June 16, 2015, Rosemary Hibbler sent an email to the Washington Department
9 of Corrections requesting a meeting with the Superintendent of the Department of Corrections
10 to challenge the Department of Corrections' refusal to authorize her as an eligible housing
11 vendor under the Sober Solutions name. Her email, sent under the email tag "Sober Solutions
12 .sobersolutions2@gmail.com>" asserts "I parted ways with Patricia Sewell, Vincent Sewell
13 and their Sober Solutions company ... and formed my own company." Ms. Hibbler closes her
14 email by asserting that she is the "Executive Director" of "Sober Solutions Supportive
15 Services" with an internet web address of www.sobersolutionshousing.org. The Department of
16 Corrections is a major source of housing funding for the Sewells because they house inmates
17 upon their release from DOC facilities.

18 3.38 On June 19, 2015, Hibbler sought an antiharassment order in King County
19 District Court against Patricia Sewell and Vincent Sewell. The Court refused to enter an
20 emergency order and set the matter over for hearing on July 1, 2015.

21 **IV. CAUSES OF ACTION**

22 **First Cause of Action: Breach of Washington's Consumer Protection Act** 23 **RCW 19.86.020**

1 4.1 Plaintiffs incorporate herein by reference as though fully set forth at length each
2 and every preceding allegation and statement contained herein, inclusive, of the Fac
3 Allegations.

4 4.2 Washington's Consumer Protection Act provides that "unfair methods of
5 competition and unfair or deceptive acts or practices in the conduct of any trade or commerce
6 are hereby declared unlawful." RCW 19.86.020. The Washington courts have interpreted this
7 statute in establishing the elements of the WCPA in that "an action for damages under the
8 WCPA, a party must prove: (1) an unfair deceptive act or practice; (2) in conduct of trade or
9 commerce; (3) that has an impact on public interest; (4) which causes an injury to the plaintiffs
10 in their business or property; and (5) that there is a casual link between the unfair practice
11 deceptive act and the injury suffered." *Picket v. Hollan America Line-Westours, Inc.*, 153 Wn.2d
12 2d 178, 35 P.3d 351 (2001), cert. denied 535 U.S. 941, 122 S. Ct. 2624, 153 L.Ed 2d 806 (2002).

14 4.3 In the present matter, regardless of intent, given the various means by which the
15 defendant continued to use the Sober Solutions, Sober Solutions Transitional Housing, and/or
16 Sober Solutions Transitional Housing Services, LLC name in correspondence; letterhead;
17 signage; brochures; banners, invoices; receipts; websites; email addresses; contracts with third-
18 parties; advertising; media communications; client agreements, applications, contracts, rules,
19 regulations, communications, and correspondence; utility billing; banking; and federal, state, and
20 local government communications and licensure there was a tendency or capacity to deceive.
21 *Sing v. John L. Scott*, 134 Wn.2d 24, 30, 948 P.2D 816 (1997)). Indeed, Hibbler's
22 communications with the Sewells' tenants, and partners, including George Brummell and
23 Catholic Community Services, and with the government, including the Secretary of State, United
24 States Patent and Trademark Office, Internal Revenue Service, and the Department of
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1 Corrections, demonstrate that Hibbler's unauthorized use of the Sober Solutions name confused
2 the government and parties with whom the Sewells had been conducting business.

3 4.4 The defendant has been involved in numerous forms of public and indirect
4 advertising such as the world-wide web which have a great deal of potential to deceive members
5 of the public in general, and consequently, engaged in deceptive acts and practices that had a
6 tendency or capacity to deceive. *Henry v. Robinson*, 67 Wash. App. 277, 291, 834 P.2d 1091
7 (1992).

8 4.5 The defendant's acts of deceiving the public, via the use of Sober Solutions, Sober
9 Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC
10 business name, were clearly done in the course of making profit for her personally, and thus,
11 were easily within the scope of conduct of trade or commerce. *State Farm Fire and Cas. Co. v.*
12 *Huynh*, 92 Wn.App. 454, 962 P.2d 854 (1998).

13 4.6 In the present matter, the defendant utilized the Sober Solutions, Sober Solutions
14 Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business
15 names for the purpose of maintaining a customer base at her own business by advertising to the
16 public in general via various publications such as an Internet website, signage, and government
17 communications, and thus, established a public interest in the matter. *Cotton v. Kronenberg*, 111
18 Wn.App. 258, 44 P.3d 878 (2002), (reconsideration denied, review denied, 148 Wn.2d 1011, 62
19 P.3d 890). Moreover, Hibbler's conduct directly affects the public interest because her actions
20 threaten to harm the policy objectives and the integrity of governmental operations, including
21 the Secretary of State, United States Patent and Trademark Office, Internal Revenue Service,
22 and the Department of Corrections. Indeed, Hibbler's continued operation of Sober Solutions
23 Transitional Housing as a non-profit charity after the termination of its tax-exempt status directly
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1 impacts the public interest because of the government's interest in preventing tax evasion and
2 the operation of unlawful charities that prey on a charitably inclined public.

3 4.7 As a result of the defendant's actions, plaintiffs suffered injury in the form of a loss
4 of income from their business. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*,
5 105 Wash.2d 778, 792, 719 P.2d 531, 539 (1986). (see also *Robinson v. Avis Rent A Car System,*
6 *Inc.*, 106 Wn.App. 104, 22 P.3d 818 (2001), review denied 145 Wash.2d 1004, 35 P.3d 381).
7 The plaintiffs have lost business income and clients resulting from Hibbler's continued use of
8 their business name and related actions, including the posting of notices and legal pleadings on
9 their real property threatening and warning Sober Solutions clients and contractors, mailing
10 threatening letters to Sewell business partners demanding they direct payment to her; and
11 operating a property on the same street and under the same name as the Sewells. In particular,
12 plaintiffs have encountered numerous customers that have conducted business with the
13 defendant because they were under the impression that the defendant was somehow affiliated
14 with the plaintiffs' business.
15

16 **Second Cause of Action: Common Law Trade Name Infringement**
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18 4.8 Plaintiffs incorporate herein by reference as though fully set forth at length each
19 and every preceding allegation and statement contained herein, inclusive, of the Factual
20 Allegations.

21 4.9 In the present matter, the Plaintiffs have been using the Sober Solutions, Sober
22 Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC
23 name since 2010, *while the defendant was serving time in prison for theft and forgery*, and
24 well before the defendant misappropriated the name for her unlawful use in 2015. Thus, the
25 plaintiffs have the right to the exclusive use of the trade name. *Bishop v. Hanenburg*, 39
26 Wn.App. 734, 695 P.2d 607 (1985).

1 4.10 The defendant infringed on the plaintiffs' Sober Solutions, Sober Solutions
2 Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business
3 name by continuing to use the exact same business name in the exact same industry without
4 authorization so as to deceive or mislead persons of ordinary caution into the belief that they
5 are dealing with one concern when they are dealing with other. *Foss v. Culbertson*, 17 Wash.2d
6 610, 136 P.2d 711 (1943). (see also *Cedar-Al Products, Inc. v. Chamberlain*, 38 Wn.App. 626,
7 687 P.2d 880 (1984)).

8 4.11 The name, Sober Solutions, Sober [REDACTED] Solutions Transitional Housing, and/or Sober
9 Solutions Transitional Housing Services, LLC name is very descriptive and original, associated
10 with and specific to the Sewells. The defendant has no inclination to use the Sober Solutions,
11 Sober Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services,
12 LLC name other than for the purposes of exploiting it for profit. *Bishop v. Hanenburg*, 39
13 Wn.App. 734, 695 P.2d 607 (1985). (see also *Cedar-Al Products, Inc. v. Chamberlain*, 38
14 W [REDACTED] 626, 687 P.2d 880 (1984)).

15 4.12 The defendant's acts were in bad faith in that the defendant's continued use of the
16 Sober Solutions, Sober Solutions Transitional Housing, and/or Sober Solutions Transitional
17 Housing Services, LLC name after being put on notice in her federal court action that the name
18 belonged to the Sewells. Worse, Hibbler continued to use the Sober Solutions name even after
19 her federal trademark infringement claims were dismissed by the federal court with prejudice
20 on April 9, 2015.

21 4.13 Lastly, Vincent Sewell terminated Hibbler's affiliation with Sober Solutions on
22 December 23, 2014 and never authorized her to take over the non-profit, obtain trademarks, or
23 otherwise the Sober Solutions name in her business correspondence; letterhead; signage;
24 brochures; banners; invoices; receipts; websites; email addresses; contracts with third-parties;
25 advertising; media communications; client agreements, applications, contracts, rules,
26 regulations, communications, and correspondence; utility billing; banking; and federal, state,

1 and local government communications and licensure. As a result of Hibbler's wrongful use of
2 the Sober Solutions name, the plaintiffs have witnessed a drop in their business and clients
3 resulting from the defendant's continued use of the plaintiff's business name in general, and
4 more specifically, at a location less than one mile from their business. In particular, plaintiffs
5 have encountered numerous customers that have conducted business with the defendant
6 because they were under the impression that the Defendant was somehow affiliated with the
7 plaintiffs' business. Thus, the plaintiffs and defendant are in direct competition for customers.

8 **Third Cause of Action: Tortious Interference with Business Expectancy**

9 4.14 Plaintiffs incorporate herein by reference as though fully set forth at length each
10 and every preceding allegation and statement contained herein, inclusive, of the Factual
11 Allegations.

12 4.15 Tortious interference occurs where the plaintiffs can show (1) the existence of a
13 valid contractual relationship or business expectancy (2) the defendant had knowledge of that
14 expectancy; (3) an intentional interference inducing or causing a breach or termination of the
15 relationship or expectancy; (4) the defendant interfered for an improper purpose or used
16 improper means; and (5) damage resulted. *Hudson v. City of Wenatchee*, 94 Wn.App. 990, 974
17 P.2d 342 (1999) (see also *Goodyear Tire & Rubber Co. v. Whiteman Tire, Inc.*, 86 Wn.App. 732,
18 935 P.2d 628 (1997); *Leingang v. Pierce Co. Med. Bureau, Inc.*, 131 Wash.2d 133, 930 P.2d 288
19 (1997)).

20 4.16 Firstly, the existence of a valid contractual relationship or business expectancy, if
21 a defendant has interfered in a business relationship between the plaintiffs and a third party that
22 does not involve a valid contract, the plaintiffs may still have a valid cause of action for
23 intentional interference with business expectancy with at least a reasonable expectation of
24 fruition. *Seymanski v. Dufault*, 80 Wn.2d 77, 84-85, 491 P.2d 1050 (1971) (see also Restatement
25
26

1 of Torts § 766A (1939)). Here, future dealings with prospective customers obtained by the
2 defendant using the Sober Solutions, Sober Solutions Transitional Housing, and/or Sober
3 Solutions Transitional Housing Services, LLC name would most certainly fall within the scope
4 of this rule as a transaction with customers for the purpose of providing services
5 for profit. Defendant entered into a contract with a "reasonable expectation of fruition." Most
6 significant, defendant wrongfully asserted her ownership of the Sewells' business and
7 the Sober Solutions name to the Sewells own tenants; insurance providers, utility partners,
8 including Sprint and Puget Sound Energy; and business partners such as the Department of
9 Corrections.

10
11 4.17 Secondly, that the defendant had knowledge of that expectancy, in that the
12 defendant had previously worked on contract for Vincent Sewell and Sober Solutions, Sober
13 Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC.
14 The defendant knew that the Sewells were trying to establish a partnership with the Catholic
15 Community Services HEN program to provide housing for CCS clients.

16 4.18 Thirdly, the Sewells can demonstrate that Hibbler intentionally interfered with their
17 contractual expectancies by inducing or causing a breach or termination of the relationship or
18 expectancy. Hibbler was a mere contractor of the Sewells and Sober Solutions and any actions
19 taken by Hibbler to claim ownership of Sober Solutions outside the scope of her contract or after
20 its termination were wrongful and intentional. Furthermore, the defendant's misappropriation
21 and misrepresentation of her ownership of the Sober Solutions name or entity in communications
22 with Catholic Community Services and other third parties caused the termination of a business
23 expectancy of current and future relationships with potential clients and customers in the
24 government and non-profit area by misleading government and non-profit customers into falsely
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26

believing Hibbler was affiliated with the Sober Solutions, Sober Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC name.

4.19 Fourthly, the defendant was removed from Sober Solutions and after being provided with notice to refrain from such use, continued on the Sober Solutions, Sober Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business name for the sole purpose of its own pecuniary interests and to the subsequent detriment of the plaintiffs. Thus, the defendant's acts were done with improper purpose or by improper means. *Pleas v. City of Seattle*, 112 Wash.2d 794, 774 P.2d 1158 (1989) (see also Restatement (Second) of Torts, § 766B comment d).

4.20 Lastly, the plaintiffs have suffered a loss of actual and potential customers from government and non-profit agency customers area that were misled into believing that the Sober Solutions, Sober Solutions Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business was still affiliated with the defendant's business after the plaintiffs had provided the defendant with notice to refrain from such use. The plaintiffs witnessed a drop in their business and clients resulting from the defendant's continued use of the plaintiffs' business name less than one mile from their business. In particular, plaintiffs have encountered numerous customers that have conducted business with the defendant because they were under the impression that the defendant was somehow affiliated with the plaintiffs' business.

Fourth Cause of Action: Common Law Fraud

4.21 Plaintiffs incorporate herein by reference as though fully set forth at length each and every preceding allegation and statement contained herein, inclusive, of the Factual Allegations.

1 4.22 The nine elements of fraud are (1) Representation of an existing fact; (2) The
2 speaker's knowledge of its falsity; (3) The speaker's intent that it be acted upon by the plaintiff
3 (or third party); (4) Plaintiff (or third party's) ignorance of the falsity; (5) Plaintiff (or third
4 party's) reliance on the truth of the representation; (6) Plaintiff (or third party's) right to rely on
5 it; and (7) Resulting damages. *Stiley v. Block*, 130 Wn. 2d 486, 925 P.2d 194 (1996)
6 (distinguished on other grounds), (see also *Hoffer v. State*, 110 Wn.2d 415, 755 P.2d 781 (1988),
7 aff'd on rehearing 113 Wn.2d 148, 776 P.2d 963 (1989) and cases cited therein).

8 4.23 The defendant, a convicted thief and forger, used the Sober Solutions trade name
9 to fraudulently assert that she was the owner in-fact of the plaintiff's business, to obtain
10 government contracts, and to market her operation as a tax-exempt entity, which is clearly a
11 misrepresentation of an existing fact. *Nyquist v. Foster*, 44 Wash.2d 465, 268 P.2d 442 (1954);
12 *North Pac. Plywood, Inc. v. ~~James~~ Road Builders Inc.*, 29 Wn.App. 228, 628 P.2d 482 (1981).

13 4.24 The defendant, by fraudulently representing that she was affiliated with the
14 plaintiff's business in order to obtain government contracts and to market her operation as a tax-
15 exempt entity, influenced numerous customers into obtaining services from the defendant or
16 delaying or avoiding business relationships with the legitimate Sober Solutions program. *Martin*
17 *v. Miller*, 24 Wn.App. 306, 600 P.2d 698 (1979) (citing Restatement (Second) of Torts § 538).

18 4.25 The defendant's representations were clearly false, as the defendant was in no way
19 affiliated with the plaintiff's business name after December of 2014, the tax-exempt status
20 terminated in December of 2014, and the federal court dismissed her federal trademark claims
21 in April of 2015.

22 4.26 The defendant knowingly engaged in an on-going campaign of theft, harassment,
23 intimidation, litigation, and misappropriation acted to hijack the Sober Solutions name after
24
25
26

1 Vincent Sewell terminated her affiliation with Sober Solutions on or about December 23, 2014.
2 In addition, knowledge can be inferred by the defendant's failure to refrain from utilizing the
3 plaintiff's business name after being put on notice in her federal court action that the name
4 belonged to the Sewells and after her federal trademark infringement claims were dismissed by
5 the federal court with prejudice on April 9, 2015. *Marrero v. Cook*, 51 Wn.2d 338, 340-41, 318 P.2d
6 613 (1957). (see also *Swanson v. Solomton*, 50 Wash.2d 825, 314 P.2d 655 (1957)).

7 4.27 Defendant, as a former contractor, knew the Sewell's business name contained
8 sufficient recognition and goodwill to attract business government and non-profit customers in
9 the King County area. Thus, by continuing to use the plaintiffs' business name after her
10 termination, the defendant clearly intended that the misrepresentation would be acted upon by
11 customers and to subsequently obtain business customers. *Haberman v. Washington Public Power*
12 *Supply System*, 109 Wash.2d 107, 744 P.2d 1032 (1987).

14 4.28 The customers were ignorant of the falsity of the information, because only the
15 Defendant was privy to the fact that she was not affiliated with the plaintiffs' business name and
16 had no actual legal basis to use the name following her termination.

18 4.29 Customers reasonably relied and had a right to rely on the defendant's false
19 representations, as it would not be reasonable under the circumstances for each customer to
20 inquire with management as to the validity of the defendant's business name, when there is no
21 contradictory information before them. *Lawyers Title Ins. Corp. v. Baik*, 147 Wash.2d 536, 55
22 P.3d 619 (Wash. Oct 17, 2002).

24 4.30 Plaintiffs suffered damages from loss of business and loss of goodwill proximately
25 caused by the defendants' fraudulent representation and misappropriation of the plaintiffs'
26 business name. *Turner v. Enders*, 15 Wash. App. 875, 552 P.2d 694, Wash. App., 1976 (see also

1 *Salter v. Heiser*, supra, 39 Wash.2d at 832, 239 P.2d 327). The plaintiffs have spent tens of
2 thousands of dollars and diverted countless hours away from the operation of their business to
3 counteract Hibbler's [REDACTED] and unfounded misappropriation campaign. Moreover, the
4 plaintiffs have witnessed [REDACTED] in their business and clients resulting from the defendant's
5 continued use of the plaintiffs' business name at a location less than one mile from their business.
6 In particular, plaintiffs have encountered numerous customers that have conducted business with
7 the defendant because they were under the impression that the defendant was somehow affiliated
8 with the plaintiffs' business. As a direct and proximate result of the aforementioned conduct of
9 defendant as described above, plaintiffs have been damaged in amounts to be proven at trial.
10

11 4.31 The extent of damages is to be determined during the course of discovery.

12 4.32 Furthermore, these acts are a violation of RCW 9A.56.320, the criminal statute
13 involving financial fraud and the unlawful possession and production of [REDACTED].
14

15 **Fifth Cause of Action: Unjust Enrichment**

16 4.33 Plaintiffs incorporate herein by reference as though fully set forth at length each
17 and every preceding allegation and statement contained herein, inclusive, of the Factual
18 Allegations.

19 4.34 In the present matter [REDACTED] knowledge and connections in the
20 course of her contractual relations [REDACTED] that she utilized to her benefit and to
21 their detriment. Plaintiffs have encountered [REDACTED] customer that have conducted business
22 with the defendant because they [REDACTED] that the defendant was somehow
23 affiliated with the plaintiffs' business. Thus, the defendant retained proceeds derived from
24 unauthorized use that infringed on the plaintiffs' business name in a manner that was not
25 bargained for in the course of their contractual relationship with the defendant and after
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1 numerous notifications to refrain from such use. *Lynch v. Deaconess Medical Center*, 113
2 Wash.2d 162, 164, 776 P.2d 681 Wash. (1989) (see also *Chandler v. Washington Toll Bridge*
3 *Authority*, 17 Wash.2d 591, 137 P.2d 97 (1943)).

4 **V. PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs respectfully pray that this Court enter judgment against
6 defendant Rosemary A. Hibbler a/k/a Rosemary Pargoud a/k/a Rosemary Barnes d/b/a Sober
7 Solutions and/or d/b/a Sober Solutions Transitional Housing and order that:

- 8 A. The Defendant be barred from bringing any further claims against the Sewells after finding
9 that Rosemary Hibbler is a vexatious litigant;
- 10 B. The Defendant refrain from the continued use of Sober Solutions, Soher Solutions
11 Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business
12 name;
- 13 C. The Defendant to send notice to all of the third parties with whom she has communicated
14 that she has been barred from the continued use of Sober Solutions, Sober Solutions
15 Transitional Housing, and/or Sober Solutions Transitional Housing Services, LLC business
16 name;
- 17 D. The Secretary of State to withdraw any trademark, trade or other names from Rosemary
18 Hibbler;
- 19 E. The defendant pay the Sewells compensatory and consequential damages;
- 20 F. The defendant pay actual damages, treble damages, costs and attorney fees under the
21 Consumer Protection Act, RCW 19.86.020 ;
- 22

1 G. Grant ancillary remedies, including but limited to, an award of prejudgment interest on all
2 such sums properly due to Plaintiff, reasonable attorneys' fees and taxable costs in favor
3 of Plaintiffs and against Defendants to the full extent permitted under the law; and

4 H. Order such other and further relief at law and in equity as may be lawful, just and equitable.
5 Plaintiffs reserve the right to amend their complaint to add additional parties and other facts, if
6 necessary, at a later date.

7 DATED this 30th day of June, 2015.

8 BARRAZA LAW, PLLC

9 /s/ Vicente Omar Barraza

10 Vicente Omar Barraza, WSBA # 43589

11 Attorney for Plaintiffs

12 14245-F Ambaum Blvd SW

13 Burien WA 98166

14 206-933-7861/Fax 206-933-7863

15 **DEMAND FOR JURY TRIAL**

16 Please take notice that Plaintiffs Vincent K. Sewell, Patricia A. Sewell, and Sober
17 Solutions Transitional Housing Services, LLC demand trial by jury in this action.

18 DATED this 30th day of June, 2015.

19 BARRAZA LAW, PLLC

20 /s/ Vicente Omar Barraza

21 Vicente Omar Barraza, WSBA # 43589

22 Attorney for Plaintiffs

23 14245-F Ambaum Blvd SW, Burien WA 98166

24 206-933-7861/Fax 206-933-7863